

Minutes of the Board of Adjustment meeting held on Monday, November 10, 2008, at 5:30 p.m. in the Murray City Municipal Council Chambers, 5025 South State Street, Murray, Utah.

Present: Joyce McStotts, Vice-Chair
Wendell Coombs, Jr.
Jonathan Russell
Connie Howard
Tim Tingey, Community & Economic Development Director
Chad Wilkinson, Community Development Planner
G.L. Critchfield, Deputy City Attorney
Citizens

Excused: Rosi Haidenthaller, Chair

There was a Pre-Meeting held where the Board of Adjustment members briefly reviewed the applications. An audio recording is available for review in the Community & Economic Development office.

Joyce McStotts explained that variance requests are reviewed on their own merit and must be based on some type of hardship or unusual circumstance for the property and that financial issues are not considered a hardship.

APPROVAL OF MINUTES

There were no minutes for approval.

CONFLICT OF INTEREST

There were no conflicts of interests.

CASE #1368 – GOOD LOOKING DAVE'S – 4580 South 300 West

David and Stacey Murdock were the applicants present to represent this request. Chad Wilkinson reviewed the location and request for several variances. The variances requested are to eliminate the required 5-foot landscape area adjacent to off-street parking (Section 17.152.100D); a variance to eliminate the required 10 foot depth landscape area along a portion of the street frontage (Section 17.152.100A); a variance to the requirement to pave the parking lot at the time of expansion of an existing use (Section 17.72.020); and a variance which requires that vehicles enter and exit the public street by forward motion only (Section 17.72.050D). The property is zoned M-G-C and the current use of auto repair is a permitted use in the zone. The property is currently occupied by an approximately 2,400 sq.ft. building. The applicant has proposed to expand the existing business by an additional 2,400 square feet. The land use ordinance requires compliance with certain standards when an existing business is expanded. Among the standards required to be brought into compliance are landscaping and parking. The site is currently nonconforming in relation to landscaping. Specifically, there is currently no landscaping along the property frontage on 300 West or Jensen Lane. The ordinance requires a 10 foot landscape strip on a portion of the 300 West frontage and has requested a variance along the remainder of the 300 West frontage and along all of the Jensen Lane frontage. The site currently has a paved area along 300 West that is large enough to accommodate 4-5 parking spaces. The remainder of the site is currently unpaved. The ordinance requires that at the time a use is enlarged, parking lots must be paved and be brought into compliance with the Code related to size and configuration of spaces. The spaces along 300 West require vehicles to back into the street. The ordinance requires that parking

spaces allow for vehicles to enter the public street in a forward motion. In order to install landscaping along 300 West, per the requirement of the land use ordinance, the parking along 300 West needs to be removed. The applicant has also requested a variance to the requirement to pave the parking lot at the time of expansion. Based on review and analysis of the application material, subject site and surrounding area, and applicable Murray Municipal Code Sections, staff recommends approval of the requested variance to eliminate the required 10 foot wide landscape strip along Jensen Lane; staff recommends denial of the requested variance to eliminate the required 10 foot wide landscape strip along 300 West, the variance to eliminate the requirement to pave the parking lot, and the variance to waive the requirement for vehicles to enter the public street in a forward motion.

Wendell Coombs asked if the 5 foot landscaping is being recommended for granting the variance. Mr. Wilkinson responded that staff recommends a variance for this request, but it could also be taken care of through vacating the property line.

David Murdock, 4580 South 300 West, stated that this property is different from other properties in the area because it is an automotive shop and the surrounding businesses are not automotive shops. He stated it is crucial for his customers to be able to drop off and pick up vehicles before and after hours when the traffic level is low. However, if the parking is angled at a 45 degree angle, the vehicles could be backed out without backing into the street. Mr. Murdock stated that there was a suggestion made that their customers drop off and pick up vehicles towards the back of the property, but this is a safety concern and crime would be a problem. He indicated that the lessee Cottonwood Towing, has expressed concern if the fence is moved, that they will no longer lease the property. If the fence is moved back further, it would then expose their door to the public and would infringe on the amount of available parking.

Mr. Murdock stated that the former Community Development Director, Mr. Hamblin, had indicated to him that he would be able to obtain a permit and business license for this location at which time Mr. Murdock purchased the building, but he has since been informed that these improvements must be made to the property or obtain a variance. He stated that now the city is requiring him to improve the property and had he known this prior he would not have purchased the building.

Stacey Murdock stated that customer drop off is critical for their type of business because most customers wish to drop off their vehicles before and after business hours. She stated that she inquired at the Murray Police Department as to whether there have been any accidents resulting from people backing out into the street. She received a letter from the police department indicating there have never been any accidents resulting from people backing out into the street for this property. If the parking is angled there would be 44 feet of width for vehicles to maneuver. She stated there is a driveway between their shop and the adjacent shop which needs to remain open and installation of landscaping would prohibit this access to the back of the shop.

Mr. Murdock stated that they would like to eventually pave the parking lot, but would like to do so at a later date due to finances.

Jonathan Russell asked how long the applicants have occupied this property. Mr. Murdock responded that his business has been at this location for 7 years, but that he purchased the new building in May of 2008. Mr. Murdock indicated that he has spoken with the previous property owner who indicated that there has never been an accident in front of this business due to

vehicles backing into the street. He stated that after they purchased the building, their contractor was given different information regarding the required improvements of the property. Mrs. Murdock stated the bids they received for paving the parking lot are approximately \$50,000, which doubled the price of this project and is overwhelming to them at this time.

Connie Howard asked about the timing for requiring the parking lot to be paved. Mr. Wilkinson responded that there is a provision in the city code for a staging plan to be approved by the planning commission for improvements. He explained that through some type of security, it would allow the applicant to stage the improvements which would be preferred over granting a variance for the improvements.

Joyce McStotts reiterated that unfortunately finances are not criteria for which the Board may grant a variance.

Connie Howard asked about the parking, and if the parking is allowed to be angled, the Board would in essence be altering the applicant's request which is not something the Board may wish to do. Mr. Wilkinson responded that the applicants must meet the parking standards such as proper aisle width for angled parking, etc. He stated that angled parking is typically used for one-way configurations and staff has not analyzed the 45 degree parking situation as proposed by the applicant along the frontage, and this would also be a deviation from the variance as requested with the application.

Wendell Coombs asked how much space is between the street and the building. Mr. Murdock responded there is 37 feet between the curb and the building.

Mr. Coombs suggested an alternative such as a drive through situation for dropping off vehicles coming from the north and dump into the parking lot at the south.

Connie Howard made a motion to adopt the staff recommendation to grant the variance to eliminate the requirement for the 10 foot wide landscaping strip along Jensen Lane since that was determined that it would be contrary to the public's best interest since it is an unused dead-end street, and grant the variance between the properties to eliminate the required 5 foot landscape adjacent to the off-street parking (between the two parcels). The other variances for paving the parking lot, the landscaping on 300 West and the parking requirement for vehicles to enter in and out of the property in a forward motion be denied. Seconded by Jonathan Russell.

Call vote recorded by Tim Tingey.

 A Ms. Howard
 A Mr. Russell
 A Mr. Coombs
 A Ms. McStotts

Motion passed, 4-0.

CASE #1369 – PETER & BONNIE GRANZIN – 1880 East Zenda Way

Peter Granzin and Bret Carter were present to represent this request. Chad Wilkinson reviewed the location and request for a variance to construct a secondary story addition onto a nonconforming dwelling which does not meet the side yard setback requirements of the R-1-10

zone. The applicants are requesting a variance to construct a second story addition onto a nonconforming dwelling and carport which does not meet the side yard setback requirements of the R-1-10 zone. The applicants plan to convert the existing carport into a garage. The property was annexed into Murray City a few years ago. The zoning regulations require a minimum of 20 feet total side yards and a minimum of 8 feet side yard. The applicants are requesting a 5 foot variance for 15 feet total side yards setback and a 1 foot variance for a 7 foot side yard. Section 17.52.040 and 17.104.080B, states that Board of Adjustment approval is required to construct an addition onto a nonconforming dwelling. The applicant noted the house and carport were built in 1964 in Salt Lake County. Based on review and analysis of the application materials, subject site and surrounding area, and applicable Murray Municipal Code Sections, the staff finds the proposal meets the standard for a variance and recommends approval.

Bret Carter, 6431 South 1940 East, contractor for Mr. Granzin, stated the addition will improve the aesthetics of the home and neighborhood and will make it more desirable to meet the Granzin family's needs. He stated the addition will not expand beyond the existing footprint, except for the stairs which are off the back and are over the top of an existing exterior staircase.

Mr. Coombs asked the height of the structure. Mr. Carter responded that the height will be approximately 31 feet, and 35 feet is the maximum height allowed in the R-1-10 zone.

Mr. Russell asked the existing square footage and the square footage with the addition. Mr. Carter responded the home is about 1,700 sq.ft. and the home will be about 2,100 sq.ft. with the addition.

Mr. Russell asked how long Mr. Granzin has lived in the home. Mr. Granzin responded that he has lived in the home since 1999 and they wish to stay in the home but desire additional room.

Mr. Wilkinson commented that the planning staff received a phone call from the property owner to the east indicating their support of this variance request.

Wendell Coombs made a motion to grant the variance based upon the findings and recommendations of staff that it meets the five standards set forth and doesn't adversely affect the neighborhood, meets the spirit of the law, and is not contrary to public interest in allowing them to increase their home without encroaching further on the setbacks. Seconded by Jonathan Russell.

Call vote recorded by Tim Tingey.

 A Ms. Howard
 A Mr. Russell
 A Mr. Coombs
 A Ms. McStotts

Motion passed, 4-0.

CASE #1370 – 9TH AVENUE DENTAL – 6298 South 900 East

Dave Collard was the applicant present to represent this request. Chad Wilkinson reviewed the location and request for a monument sign height variance in the R-N-B zone at the property addressed 6298 South 900 East. The applicant is requesting a monument sign height variance of 1.5 feet for a total sign height of 7.5 feet above the top back of curb. The zoning regulations limit sign height to 6 feet high above top back of curb. The applicant noted they need to move the sign back 4 feet because there is a culvert where they were placing it, and the grade slopes higher toward the building which is 18 inches higher at the proposed location. Murray Municipal Code Section 17.140.210 and Section 17.48.240 identifies the requirements for the location, setback, height and other requirements for a monument sign to be located in the R-N-B (residential neighborhood business) zone. Based on review and analysis of the application materials, subject site and surrounding area, and applicable Murray Municipal Code Sections, the staff finds that the proposal meets the standards for a variance.

Dave Collard, Allied Electric Sign at 1920 South 900 West, indicated he is representing this request.

Connie Howard asked why the sign could not be reduced in height. Mr. Wilkinson responded that the sign height maximum allows a height up to 6 feet, but based upon review of the site and the unique situation with the culvert, the property does lend itself to a unique situation. The sign itself does not exceed 6 feet in height, but the sign is measured from the top back of curb. The staff feels there are special circumstances associated with the culvert on the property and constitutes a hardship.

Joyce McStotts asked for clarification of the sign height. Mr. Wilkinson responded the total height of the sign is 6 feet from footing to the top of the sign, but there is a difference in grade from the top back of curb of about 18 inches, making the top of the sign 7.5 feet.

No comments were made by the public.

Mr. Russell commented that this situation is fitting for a variance.

Jonathan Russell made a motion to grant a height variance for the sign as proposed to be a total height of 7.5 feet based on the unique situation with the culvert location on the property. Seconded by Connie Howard.

Call vote recorded by Tim Tingey.

 A Ms. Howard
 A Mr. Russell
 A Mr. Coombs
 A Ms. McStotts

Motion passed, 4-0.

OTHER BUSINESS – Review of Policies and Procedures

Tim Tingey, Community & Economic Development Director, explained that the proposed Policies and Procedures are a summary of what was discussed at the October 2008 meeting.

In the city ordinance it specifically discusses rules for the Board of Adjustment and under those rules it indicates that the Board will adopt Policies and Procedures as to conduct for running meetings and dealing with the issues before the Board. The Board has been given a draft of the Policies and Procedures and asked that the members review the draft and hopefully adopt them at the next meeting. The Policies & Procedures outline the way the Board runs meetings, as well as Planning Commission, Redevelopment Agency meetings, etc. and are a reflection on the city as a whole and the more professional, and the more diligent in adhering to formats and procedures as adopted by state law the better reflection of the city as a whole.

Mr. Coombs commented about a correction for the meeting schedules being on the second Monday of each month.

Mr. Tingey suggested that the order of business and order of issues ought to have some flexibility so as to accommodate agenda items where there may be potential public interest, for instance, and if there is anticipated to be numerous persons in attendance for a particular agenda item.

Mr. Tingey stated that on page 3, under "Decisions", that it is suggested the Board adopt a "Findings of Fact" after each meeting. The "Findings of Fact" is the reasoning and formal documentation as to why the Board made the decision that they made. This helps with any legal ramifications and summarizes the meeting, and summarizes the findings of fact, and what the decision was based upon.

Mr. Tingey suggested that adoption of the "Findings of Fact" would occur at the following meeting. This process has also been adopted by the Planning Commission and has been working well.

Wendell Coombs brought up a point that was raised at the training meeting on October 30, 2008 wherein the Board is a quasi-judicial committee and it was recommended that the Board meetings are not public hearings, but is a public meeting and that public comments are not required. He stated that if public comment is not taken, it would drastically shorten the meetings and asked how the other board members feel about this idea. He suggested that the notices mailed to surrounding residents could be modified in a way so as to explain that the public may submit comment to the Community & Economic Development Department so much time prior to the meeting. This would allow the staff to include those public comments in their staff reports and findings.

Connie Howard stated that public comment is equal to public interest which is one of the requirements for granting of a variance. She stated that often times the public comments are not relative to the guidelines for granting of a variance. She asked if public comment is in fact public interest?

Mr. Coombs stated that prior to laws being adopted, public hearings must be held. At that time is when the public is allowed an opportunity to give input. Once an ordinance has been passed and adopted by the city, it is in essence "law". The Board is acting upon those "laws" and is bound by those "laws".

Mr. Coombs commented that sometimes the public comments confuse the Board members and is a distraction from the real issues of the variances. He stated that he was not opposed to eliminating the option of having public comment during the board meetings.

Mr. Tingey stated that it is a bold statement to have these public meetings wherein public is invited to attend yet is not allowed the opportunity to make comments and makes it a difficult situation. He stated that the public ought to be educated more on this process. He stated the Board needs to be focusing on the findings during the meetings rather than the public comment which often times is not relative to the actual issue at hand or the basis for granting of a variance. Mr. Tingey stated that when the public shows up to a meeting and show interest about their neighborhood, they ought to be able to voice their opinions. He stated that educating the public about the processes is important at this time.

Joyce McStotts stated she is not opposed to allowing public comment, but needs to be limited by way of a time frame and to stick to the issues.

Connie Howard liked the idea of limiting public comment by limiting the time allowed or by limiting the number of those who may speak by way of having a spokesperson for a group of people.

Joyce McStotts suggested having the option of the board being able to vote on who would be the acting chair for a meeting in the situation where both the chair and vice-chair are absent rather than automatically reverting to the longest serving board member. Mr. Tingey responded that this item be written in more of a generic manner allowing that flexibility. He asked the Board review the draft document and be able to adopt the Policies and Procedures at the next Board of Adjustment meeting with any proposed modifications or as is.

Meeting adjourned.

Chad Wilkinson, AICP
Community Development Planner